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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,354	04/15/2004	Kazuhisa Hayakawa	0171-1083PUS1	6321
2292 7590 08/31/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER BLAND, LAYLA D	
			ART UNIT 1623	PAPER NUMBER
			NOTIFICATION DATE 08/31/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No. 10/824,354	Applicant(s) HAYAKAWA ET AL.	
	Examiner Layla Bland	Art Unit 1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/15/2004, 11/23/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This application claims priority to Japanese Application No. 2003-113742, filed April 18, 2003. Claims 1-6 are pending in this application and are examined on the merits herein.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4 recite the limitation "powder-binding liquid," which is not defined in the specification. It is unclear which liquids are powder-binding liquids and which are not. It is noted that water appears to be a preferred liquid [Example 1], but powder-binding liquid is interpreted to encompass any liquid in the absence of a definition.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kazuhisa et al. (JP 11-322801, November 26, 1999, machine translation).

Kazuhisa et al. teach a method for the production of cellulose powder such as methylcellulose or hydroxypropylmethyl cellulose having an average particle size of 120 μm or less [see abstract]. Hydroxypropyl methyl cellulose of particle size 110 μm was placed in a mixer and sprayed with polyoxyethylene monooleate (a nonionic surfactant) [0022]. Hydroxyethyl methyl cellulose and ethylene glycol [0025] or propylene glycol [0026] were also utilized in separate examples. Kazuhisa et al. do not explicitly state how much product would remain on a 500 μm sieve and pass through a 106 μm sieve, but given the average particle size of 120 μm , it is expected that the majority of the compound would pass through the 500 μm sieve and remain on the 106 μm sieve, which meets the limitations of claim 6.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Savage et al. (U.S. 3,489,719, January 13, 1970, PTO-1449 submitted November 23, 2005).

Savage et al. teach a method wherein finely powdered hydroxypropyl methyl cellulose was placed in a mixer and sprayed with a composition comprising glyoxal, polyoxyethylene sorbitan monolaurate, glacial acetic acid and water [column 4, lines 20-26]. 89.7% of the starting hydroxypropyl methyl cellulose passed through a 200 mesh (about 74 μm screen) [column 4, lines 15-19], so it is expected that at least 89.7% of the starting hydroxypropyl methyl cellulose would pass through the 106 μm screen of claim 3. Savage et al. do not explicitly state how much product would remain on a 500 μm

sieve and pass through a 106 μm sieve, but since 56.5% of the resultant product was 100-325 mesh (44-149 μm) [column 4, lines 31-35], it is expected that the product meets the limitations of claim 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melbouci (U.S. 6,197,100, March 6, 2001, PTO-1449 submitted November 23, 2005).

Melbouci teaches the preparation of composition comprising water soluble polymers wherein ester surfactants are dissolved in acetone and sprayed onto dried particles of the water soluble polymer [column 6, lines 8-35]. Carboxymethyl cellulose was utilized for the invention [Table 3] and Melbouci suggests the use of polyoxyethylene sorbitan monostearate for other cellulosic derivatives such as methyl cellulose, etc. [Example 5].

Melbouci does not exemplify the method using cellulose derivatives other than carboxymethyl cellulose.

It would have been obvious to one of ordinary skill in the art to practice the method of Melbouci using a hydroxyalkyl cellulose because Melbouci expressly suggests such.

A reference is good not only for what it teaches by direct anticipation but also for what one of ordinary skill in the art might reasonably infer from the teachings. (*In re Opprecht* 12 USPQ 2d 1235, 1236 (Fed Cir. 1989); *In re Bode* 193 USPQ 12 (CCPA) 1976). In light of the forgoing discussion, the Examiner concludes that the subject matter defined by the instant claims would have been obvious within the meaning of 35 USC 103(a). From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Layla Bland whose telephone number is (571) 272-9572. The examiner can normally be reached on M-R 8:00AM-5:00PM UST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Anna Jiang can be reached on (571) 272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Layla Bland
Patent Examiner
Art Unit 1623
August 10, 2007

Shaojia Anna Jiang



Supervisory Patent Examiner
Art Unit 1623
August 10, 2007